

THE OFFICE OF CONTRACTING AND PROCUREMENT

NOTICE OF EMERGENCY RULEMAKING

The Chief Procurement Officer of the District of Columbia, pursuant to authority granted by sections 204 and 321 of the District of Columbia Procurement Practices Act of 1985, as amended, effective February 21, 1986 (D.C. Law 6-85; D.C. Official Code §§ 2-302.04 and 2-303.21) (PPA), hereby gives notice of the re-adoption of the following emergency rules, amending Chapter 18 of Title 27 of the *District of Columbia Municipal Regulations (Contracts and Procurements)*. The rules will amend those sections of Title 27 *D.C. Municipal Regulations*, Chapter 18 which pertain to small purchases procedures to reflect increases in small purchase authority to \$500,000 for procurements on behalf of the Metropolitan Police Department, and to \$100,000 for all other agencies.

The rules were previously approved as emergency and proposed rules on October 2, 2002, and a Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on November 1, 2002, at 49 DCR 9874. A second Notice of Emergency Rulemaking was published in the *D.C. Register* on April 25, 2003 at 50 DCR 3186. No substantive changes have been made to the text of the proposed rules as published. The final rules to amend Chapter 18 were submitted to the Council of the District of Columbia for its review pursuant to subsection 205(b) of the PPA (D.C. Official Code § 2-302.05(b)) on February 25, 2003, and will become effective upon expiration of the 60-day period for Council review, by Council resolution PR 15-172, on September 22, 2003, and publication of another notice of final rulemaking in the *D.C. Register*.

The rules authorize simplified acquisition procedures for procurements of critical items needed by police, Fire/EMS, public works and health personnel, procedures that streamline the process and shorten procurement times. With the increased threat of terrorism to the District area, to revert to a longer and more complex process to secure goods and services needed by these agencies would be detrimental to their mission. Also affected would be small procurements for a client population that has a need to have various social services provided as quickly as possible. Adoption of emergency rules to continue small purchase procedures in effect pending approval of final rules is thus necessary for the immediate preservation of the public peace, health, safety, or welfare, in accordance with D.C. Official Code § 2-505(c).

Therefore, to ensure that the amended chapter 18 will continue to be in effect, action was taken on July 21, 2003 to adopt the following rules on an emergency basis. These rules will remain in effect for up to one hundred twenty (120) days from the date of adoption, unless earlier superseded by another rulemaking notice or by publication of a Notice of Final Rulemaking in the *D.C. Register*.

CHAPTER 18

SMALL PURCHASE AND OTHER SIMPLIFIED PURCHASE PROCEDURES

Sections 1800 through 1803 are amended to read as follows:

1800 USE OF SMALL PURCHASE PROCEDURES

- 1800.1 The small purchase procedures set forth in this chapter may only be used for the procurement of supplies, services, and other items when the total of the procurement does not exceed \$500,000 for procurements for the Metropolitan Police Department (MPD) and \$100,000 for all other agencies, in accordance with §321 of the District of Columbia Procurement Practices Act of 1985 (Act) (D.C. Official Code §2-303.21).
- 1800.2 A contracting officer shall not use small purchase procedures when the requirement can be met by using a requirements contract, an indefinite quantity contract, a federal supply schedule, or other required source of supply as set forth in Chapter 21 of this title.
- 1800.3 A contracting officer shall not use small purchase procedures when the procurement requirement is initially estimated to exceed \$500,000 for procurements for MPD or \$100,000 for all other agencies, even though the resulting award does not exceed the applicable small purchase limit.
- 1800.4 A contracting officer shall not split a procurement totaling more than the applicable small purchase limitation into several purchases that are less than the limit in order to permit the use of the small purchase procedures.
- 1800.5 A contracting officer shall not parcel, split or divide a procurement requirement, or purchase a procurement requirement over a period of time, in order to avoid the dollar limitations for use of small purchase procedures.
- 1800.6 A contracting officer shall use the small purchase procedure that is most suitable, efficient, and economical based on the circumstances of each procurement.

1801 NON-COMPETITIVE SMALL PURCHASES

- 1801.1 A contracting officer may make a procurement for an amount of ten thousand dollars (\$10,000) or less without obtaining competitive quotations if the contracting officer determines that the purchase is in the best interest of the District government considering the price and other factors (including the administrative cost of the purchase).
- 1801.2 A contracting officer shall distribute non-competitive small purchases equitably among suppliers. When practical, a contracting officer shall solicit a quotation from a vendor other than the previous supplier before placing a repeat order.

1802 COMPETITIVE SMALL PURCHASES

- 1802.1 Except as provided in Sections 1802.2 and 1802.3, in order to promote competition to the maximum extent practicable, and to ensure that the purchase is in the best interest of the District government, considering price and other factors (including the administrative cost of the purchase), a contracting officer shall solicit quotations as follows:
- (a) For each procurement of goods and services in an amount greater than ten thousand

dollars (\$10,000) and less than or equal to twenty-five thousand dollars (\$25,000), the contracting officer shall obtain at least three (3) oral quotations from vendors for the goods and services to be purchased;

- (b) For each procurement of goods and services for more than twenty-five thousand dollars (\$25,000) and less than or equal to one hundred thousand dollars (\$100,000), the contracting officer shall obtain at least three (3) written quotations from vendors for the goods and services to be purchased; and
- (c) The contracting officer shall, unless the award is to take into consideration factors other than price or price-related factors, award the contract to the vendor providing the lowest priced quotation for the goods or services solicited.

1802.2 Except as provided in Section 1802.3, for small purchases for MPD, a contracting officer shall solicit quotations as follows:

- (a) For each procurement for goods and services in the amount greater than ten thousand dollars (\$10,000) and less than or equal to twenty-five thousand dollars (\$25,000), the contracting officer shall obtain at least three (3) oral quotations from vendors for the goods and services to be purchased;
- (b) For each procurement for goods and services for more than twenty-five thousand dollars (\$25,000) and less than or equal to five hundred thousand dollars (\$500,000), the contracting officer shall obtain at least three (3) written quotations from vendors for the goods or services to be purchased; and
- (c) The contracting officer shall, unless the award is to take into consideration factors other than price or price-related factors, award the purchase order to the vendor providing the lowest priced quotation for the goods or services solicited.

1802.3 If the contracting officer determines that it is impractical under the circumstances to obtain the number of quotations required under Sections 1802.1 or 1802.2 due to time constraints, lack of available sources, or other factors set forth in Section 1802.5, or if the contracting officer, despite a good faith effort, is unable to obtain the required number of quotations, the contracting officer may obtain quotations from fewer vendors than required in Sections 1802.1 or 1802.2. The contracting officer must document his or her attempts to obtain the required number of quotations.

1802.4 If the contracting officer determines that the best interest of the District (or other factors set forth in Section 1802.5) indicates that quotations should be obtained from more than the number of sources required under Sections 1802.1 or 1802.2, the contracting officer shall obtain additional quotations.

1802.5 In determining whether or not to obtain quotations from more or fewer vendors than required in Sections 1802.1 or 1802.2, the contracting officer shall consider the following factors:

- (a) The nature of the item or service to be purchased and whether it is highly competitive and readily available in several makes or brands, or if it is relatively non-competitive;
- (b) Information obtained in making recent purchases of the same or similar item;
- (c) The urgency of the proposed purchase;
- (d) The dollar value of the proposed purchase; and

- (e) Past experience concerning specific contractor prices.
- 1802.6 For procurements in excess of the amounts specified in Section 1801, a contracting officer may award a small purchase solicitation on a sole source basis when the contracting officer determines that one (1) of the conditions in §305(a) of the Act is satisfied, in accordance with chapter 17 of this title.
- 1802.7 A contracting officer may orally solicit quotations for procurements valued at twenty-five thousand dollars (\$25,000) or less. However, a contracting officer shall use a written solicitation in the following circumstances:
 - (a) When the contracting officer determines that obtaining oral quotations is not considered economical or practical; or
 - (b) When extensive specifications are involved.
- 1802.8 A contracting officer shall, to the greatest extent practicable under the circumstances, maximize competition for small purchases and shall not limit solicitations to suppliers of well known and widely distributed makes or brands, or solicit on a personal preference basis.
- 1802.9 Each contracting officer shall maintain a small purchase source list (or lists, if more convenient). The list shall indicate whether the business is a certified local, small, or disadvantaged business enterprise, for the purpose of applying preferences to be awarded in accordance with section 2(c) of D.C. Law 13-169.
- 1803 DETERMINATION OF REASONABLE PRICE AND AWARD**
- 1803.1 The contracting officer shall determine that the price to be paid to the successful offeror is fair and reasonable.
- 1803.2 When only one (1) response is received to a request for competitive quotations, or the price variance between multiple responses is so great that it reflects a lack of adequate competition, the contracting officer shall include a statement in the contract file giving the basis for the determination of a fair and reasonable price.
- 1803.3 The determination that a proposed price is fair and reasonable may be based on the following:
 - (a) Competitive quotations;
 - (b) Comparison of the proposed price with (i) prices found reasonable on previous purchases, (ii) current price lists, (iii) catalogs, (iv) advertisements, or (iv) similar items;
 - (c) Value analysis;
 - (d) The contracting officer's personal knowledge of the item being purchased, or
 - (e) Any other reasonable basis.
- 1803.4 The contracting officer shall establish and maintain records of oral and written price quotations and include the records in the purchase file. The records shall consist of the names of the suppliers contacted and the prices and other terms and conditions quoted by each.
- 1803.5 The contracting officer's records of solicitations shall include, at a minimum, notes of abstracts to show prices, delivery, references to printed price lists used, the vendor or

vendors contacted, and other pertinent data.

- 1803.6 The contracting officer shall retain records supporting small purchases for a minimum of three (3) years.

DEPARTMENT OF HEALTH

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in An Act to enable the District of Columbia to receive Federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 774; D.C. Official Code, § 1-307.02), Reorganization Plan No. 4 of 1996, and Mayor's Order 97-42, dated February 18, 1997, hereby gives notice of the adoption, on an emergency basis, of an amendment to Chapter 9 of Title 29 DCMR "Public Welfare," by adding a new section 937. These rules establish standards governing reimbursement by the District of Columbia Medicaid Program for preventive, consultative and crisis support services provided by health care professionals to participants with mental retardation in the Home and Community Based Services Waiver for Persons with Mental Retardation and Developmental Disabilities (Waiver). These rules also establish reimbursement rates for preventive, consultative and crisis support services.

On February 14, 2003, a notice of emergency and proposed rulemaking was published in the *DC Register* (50 DCR 1592). These emergency rules amend the previously published rules by adding a section to limit the number of hours a client may receive preventive, consultative and crisis support services during a one year period to ensure that total expenditures for all home and community-based services and other Medicaid services under the waiver does not exceed the amount that would be incurred by the State's Medicaid program for these individuals in an institutional setting. This cost neutrality requirement is included in the Waiver application approved by the Centers for Medicare and Medicaid Services (CMS), formerly the federal Health Care Financing Administration. Emergency action is necessary for the immediate preservation of the health, safety, and welfare of Waiver participants who are in need of preventive, consultative, and crisis support services.

The emergency rulemaking was adopted on June 26, 2003 and will become effective one day after publication of this notice in the *D.C. Register*. The emergency rules will remain in effect for 120 days or until October 24, 2003 unless superceded by another emergency rulemaking or by publication of a notice of final rulemaking in the *D.C. Register*, whichever comes first.

The Director gives notice of the intent to take final rulemaking action to adopt these proposed rules not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

Amend Chapter 9 (Medicaid Program) of Title 29 DCMR by adding the following new section 937 to read as follows:

**SECTION 937 PREVENTIVE, CONSULTATIVE AND CRISIS SUPPORT
SERVICES**

937.1 Preventive, consultative, and crisis support services shall be reimbursed by the Medicaid Program for each participant with mental retardation in the Home and

Community Based Services Waiver for Persons with Mental Retardation and Developmental Disabilities (Waiver) subject to the requirements set forth in this section.

- 937.2 Preventive, consultative, and crisis support services are services that are designed to support and encourage the client in his or her decision to reside within the community, to decrease the impact of the crisis event and to assist the individual to mobilize resources and regain equilibrium through the development of effective adaptive and coping mechanisms. These services shall be available to all Waiver eligible clients to prevent any unnecessary change in placement, or placement to a more restrictive environment, or to prevent a psychiatric hospitalization. Services shall be delivered under two venues-Crisis Intervention and Stabilization and Preventive and Consultative.
- 937.3 Crisis intervention and stabilization services eligible for reimbursement include, but are not limited to the following services:
- (a) An on-site assessment of the crisis situation, the client's strength and resources;
 - (b) The development of intervention strategies, including person-specific intervention strategies, which address environmental and emotional issues that may affect the client's behavior;
 - (c) Training on proactive strategies and behavioral interventions by guiding the client through exploration and identification of the problem and interpretation and resolution thereof;
 - (d) Crisis supervision or expanded supervision and monitoring to stabilize the client;
 - (e) Formulate a constructive plan and mobilize the client's resources; and
 - (f) Follow-up services which include a review of the client's progress.
- 937.4 The provider shall develop a written plan for crisis intervention which shall include all of the following information:
- (a) The names of individuals to be contacted in the event of a crisis;
 - (b) The process of responding to a crisis or emergency;
 - (c) A list of appropriate referrals;
 - (d) Conflict resolution counseling and problem solving;
 - (e) Training of informal caregivers for emergency and crisis stabilization;
 - (f) A written evaluation, including diagnosis and proposed treatment; and
 - (g) Goals of the proposed treatment.

- 937.5 Development of the required plan set forth in section 937.4 shall be based on the following activities:
- (a) Interview of the client;
 - (b) Observation of the client at his/her residence or in the community;
 - (c) Conversations with family members, friends and other professionals;
 - (d) Interpreting results of lab or other medical diagnostic studies; and
 - (e) Medical and psychiatric history.
- 937.6 Preventive and consultative services eligible for reimbursement include, but are not limited to the following services:
- (a) Training on creating positive environments and coping mechanisms, developing interventions, teamwork, and developing evaluation strategies to assess the effectiveness of interventions;
 - (b) Consultative services to assist in the development of person-specific strategies;
 - (c) Development and implementation of functional assessment techniques and strategies; and
 - (d) Development of an effective strategy for crisis prevention.
- 937.7 Preventive, consultative, and crisis support services are available to family members, service providers, or other individuals that provide support and/or services to the client.
- 937.8 Preventive, consultative, and crisis services may be provided to supplement traditional medical and clinical services available under the District of Columbia State Plan for Medical Assistance.
- 937.9 Preventive, consultative, and crisis support services shall be authorized and provided in accordance with each client's individual habilitation plan (IHP) or individual support plan (ISP).
- 937.10 Each provider of preventive, consultative and crisis support services shall:
- (a) Be a non-profit organization, home health agency, social service agency or other business entity;
 - (b) Have a current District of Columbia Medicaid Provider Agreement that authorizes the provider to bill for preventive, consultative and crisis support services under the Waiver;

- (c) Maintain a copy of the most recent IHP or ISP approved by the Department of Human Services, Mental Retardation and Developmental Disabilities Administration (MRDDA);
- (d) Ensure that all preventive, consultative, and crisis support services staff are qualified and properly supervised;
- (e) Ensure that the service provided is consistent with the client's IHP or ISP;
- (f) Offer the Hepatitis B vaccination to each person providing services pursuant to these rules and maintain a copy of the acceptance or declination of the vaccine; and
- (g) Provide training in infection control procedures consistent with the requirements of the Occupational Safety and Health Administration, U.S. Department of Labor, as set forth in 29 CFR 1910.1030.

937.11 Persons authorized to provide preventive, consultative, and crisis support services are as follows:

- (a) Psychologist;
- (b) Graduate Social Worker;
- (c) Independent Clinical Social Worker;
- (d) Registered Nurse; or
- (e) Paraprofessional working under the supervision of the psychologist, graduate social worker, independent clinical social worker or registered nurse.

937.12 Each psychologist shall have a Masters degree from an accredited institution and have at least three (3) years of experience in a setting providing habilitation and crisis support services to persons with mental retardation and other developmental disabilities.

937.13 Each psychologist shall possess professional knowledge of psychological principles, theories and methods with an ability to develop and implement treatment plans.

937.14 Each social worker shall have a Masters degree from a school of social work accredited by the Council in Social Work Education and have at least three (3) years of experience in a setting providing habilitation and crisis support services to persons with mental retardation and other developmental disabilities.

937.15 Each social worker shall possess knowledge of human behavior and of public and private human service systems in the District of Columbia.

- 937.16 Each registered nurse shall have at least three (3) years of experience in a setting providing habilitation and crisis support services to persons with mental retardation and other developmental disabilities.
- 937.17 Each psychologist, social worker and registered nurse shall have a minimum of one year's experience developing, implementing and monitoring behavior intervention plans, and developing effective interventions in response to crisis situations.
- 937.18 Each paraprofessional shall receive training on the ISP and IHP and meet all of the following qualifications:
- (a) Have a high school diploma or general educational development certificate;
 - (b) Have basic training and education in mental health;
 - (c) Have a minimum of one year experience working with persons with challenging behaviors; and
 - (d) Have a minimum of three years experience working with persons with mental retardation and developmental disabilities.
- 937.19 Each person providing preventive, consultative, and crisis support services shall meet all of the following requirements:
- (a) Be at least eighteen (18) years of age;
 - (b) Be acceptable to the client;
 - (c) Demonstrate annually that he or she is free from communicable disease, as confirmed by an annual PPD Skin Test or provide documentation from a physician, stating that he or she is free from communicable disease;
 - (d) Be able to communicate with the client;
 - (e) Have a minimum of one year experience developing, implementing, and monitoring behavior intervention plans, and developing effective interventions in response to crisis situations;
 - (f) Be able to read and write the English language;
 - (g) Have completed training in crisis intervention and positive behavioral interventions;
 - (h) Complete pre-service and in-service training required by MRDDA;
 - (i) Have the ability to provide preventive, consultative and crisis support services consistent with the client's IHP or ISP; and
 - (j) Comply with the requirements of the Health-Care Facility Unlicensed Personnel Criminal Background Check Act of 1998, effective April 20, 1999, as amended by the Health-Care Facility Unlicensed Personnel Criminal Background Check Amendment Act of 2002, effective April 13, 2002, (D.C. Laws 12-238 and 14-98; D.C. Official Code § 44-551 et seq.) and implementing rules.

937.20 Preventive, consultative, and crisis support services shall be made available twenty-four (24) hours a day, seven days a week. Services may be accessed during regular work hours through the client's case manager. In the event of an after hours emergency, authorization for services may be obtained by contacting MRDDA.

937.21 The reimbursement rate for preventive, consultative and crisis support services shall be \$150.00 for an initial assessment and \$45.00 per hour for a follow-up visit. The rate paid for the initial assessment includes the duration of time that it takes for each provider to complete a thorough assessment of the client and develop the written plan for crisis intervention.

937.22 Preventive, consultative and crisis support services shall be limited to 104 hours per client during any one year period, which shall commence on the date that the services are authorized.

937.99 DEFINITIONS

When used in this section, the following terms and phrases shall have the meanings ascribed:

Client—An individual with mental retardation who has been determined eligible to receive services under the Home and Community-Based Waiver for Persons with Mental Retardation and Developmental Disabilities.

Communicable Disease—Shall have the same meaning as set forth in section 201 of Chapter 2 of Title 22, District of Columbia Municipal Regulations.

Crisis—A situation where the client is exhibiting threatening behavior, or appears to be capable of causing physical harm or damage to another individual, personal property, or themselves.

Crisis Intervention and Stabilization Services—Services that are designed to provide an immediate on-call crisis support at the client's home due to an emergency or unpredicted crisis to assist the client to mobilize resources, regain equilibrium and develop effective adaptive and coping mechanisms.

Crisis Supervision/Expanded Supervision—Supervision of the client during the crisis by professionals or a paraprofessional consistent with the requirements of this section.

Functional Assessment—Includes (1) indirect assessment techniques such as interviews, written record reviews and questionnaires; (2) direct assessment techniques such as observation of the client, documentation of the frequency, duration and intensity of problem behaviors; and (3) the evaluation of the

relationship between the environmental and emotional variables and the occurrence of problem behaviors.

Graduate Social Worker— A person who is licensed as a graduate social worker pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1202 et seq.) or licensed as a graduate social worker in the jurisdiction where the services are being provided.

Independent Clinical Social Worker—A person who is licensed as an independent clinical social worker pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1202 et seq.) or licensed as an independent clinical social worker in the jurisdiction where the services are being provided.

Individual Habilitation Plan (IHP)—That plan as set forth in section 403 of the Mentally Retarded Citizens Constitutional Rights and Dignity Act of 1978, effective March 3, 1979 (D.C. Law 2-137; D.C. Official Code § 7-1304.03).

Individual Support Plan (ISP)—The successor to the individual habilitation plan (IHP) as defined in the court-approved Joy Evans Exit Plan.

Paraprofessional—A trained worker who is not a member of a given profession but who assists a professional.

Psychologist— A person who is licensed to practice psychology pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1202 et seq.) or licensed as a psychologist in the jurisdiction where the services are being provided.

Preventive and Consultative Services—Services that are designed as an ongoing, preventive service to improve and maintain outcomes in the health, attitude and behavior of the client.

Registered Nurse— A person who is licensed to practice registered nursing pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1202 et seq.) or licensed as a registered nurse in the jurisdiction where the services are being provided.

Regular Work Hours—Shall mean the hours of 9:00 AM to 5:00 PM, Monday through Friday, except days determined to be holidays by the District of Columbia government.

Comments on the proposed rules should be sent in writing to Wanda R. Tucker, Interim Senior Deputy Director, Medical Assistance Administration, Department of Health, 825 North Capitol Street, N.E., 5th Floor, Washington, D.C. 20002, not later than thirty (30) days from the date of publication of this notice in the *D.C. Register*. Copies of the proposed rules may be obtained from the same address.

**THE DISTRICT OF COLUMBIA
LOTTERY AND CHARITABLE GAMES CONTROL BOARD**

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Executive Director of the District of Columbia Lottery and Charitable Games Control Board, pursuant to the authority set forth in D.C. Official Code §3-1306, District of Columbia Financial Responsibility and Management Assistance Authority Order issued September 21, 1996, and Office of the Chief Financial Officer Financial Management Control Order No. 96-22 issued November 18, 1996, hereby gives notice of the adoption of amendments to Chapters 5, 6 and 10 of Title 30 DCMR, "Lottery and Charitable Games." These amendments are necessary to avoid significant financial loss to the District and loss of goodwill to the District of Columbia Lottery and Charitable Games Control Board. This emergency rulemaking was adopted on July 28, 2003 and became effective on that date. The Executive Director also gives notice of her intent to take final rulemaking action to adopt these amendments in no less than thirty (30) days from the date of publication of this notice in the D.C. Register.

These emergency rules will expire in one hundred twenty (120) days from the effective date or upon publication of a Notice of Final Rulemaking in the D.C. Register, whichever occurs first.

AMEND CHAPTER 5, "GENERAL PROVISIONS"

Amend section 500.6 to read as follows:

- 500.6 The purchaser of a lottery ticket shall be bound by, and subject to, all Agency rules, regulations, game or other instructions, issuances, policies, procedures, and the Executive Director's determinations and decisions, except that the denial of a prize claim pursuant to Chapter 6 of this title may be appealed in accordance with Chapter 4 of this title.

AMEND CHAPTER 6, "CLAIMS AND PRIZE PAYMENTS"

Amend section 611 to read as follows:

611 DISCHARGE OF LIABILITY UPON PAYMENT

- 611.1 Payment of any prize, including a POWERBALL® or Daily Millions prize, or a prize awarded pursuant to Chapter 10 of this title, shall discharge the District of Columbia, the Agency, the Multi-State Lottery Association, and their members, product groups, officers, employees, agents and attorneys, representatives, and contractors of all liability for payment of the prize.

611.2 [DELETED]

Amend section 614.1 to read as follows:

- 614.1 Pursuant to D.C. Code §2-536(6) (2001), a prizewinner's name, city, county and state of residence, winnings, and all associated game, play and prize information are records, or a portion of records, required to be made available to the public.

Information about or concerning prizewinners or participants in Agency activities authorized at Chapter 10 of this title may also be contained in records, or a portion of records, required to be made available to the public pursuant to D.C. Code § 2-531 through § 2-539 (2001).

Amend section 614.3 to read as follows:

- 614.3 The Executive Director may direct that prizewinners, or participants in Agency activities authorized at Chapter 10 of this title, be photographed or videotaped to complete the Agency's records and for the purposes identified in § 614.4.

Amend section 614.4 to read as follows:

- 614.4 A prizewinner, or participation in Agency activities authorized at Chapter 10 of this title, consents, without further consideration or expectation of payment, to the Agency's use of the prizewinner's name, county, city and state of residence, the games played, the amount of the prize and any photographic or video-graphic replication of the prizewinner's likeness or image for promotional purposes. "Promotional purposes" shall include, without limitation, advertising, publication and promotion of the Agency, its games, programs, contests and other activities in any print, broadcast, electronic, Internet or other form or media whatsoever.

Add section 614.5 to read as follows:

- 614.5 Each prizewinner, or participant in Agency activities authorized at Chapter 10 of this title, releases the District of Columbia, the Agency, Multi-State Lottery Association, and their respective game groups, members, officers, employees, agents and attorneys, representatives, and contractors from all claims and liability arising out of, or related to, the promotional purposes, and use of the information and likenesses, set out in § 614.4.

Add section 614.6 to read as follows:

- 614.6 The provisions of § 614.4 and § 614.5, which are applicable to prizewinners shall also apply to any person who presents a prize claim that is later denied or forfeited for any reason.

AMEND CHAPTER 10, "OTHER GAMES"

Add Section 1000.9 to read as follows:

- 1000.9 A participant or entrant in any Agency sweepstakes, contest, bonus game, second chance drawing, or other promotional game, device or campaign authorized by this Chapter shall be bound by, and subject to, all Agency rules, regulations, game or other instructions, issuances, policies, procedures, and the Executive Director's determinations and decisions.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than thirty (30) days from the date of publication of this notice in the Register. Comments should be filed with the Executive Director, District of Columbia Lottery and Charitable Games Control Board, 2101 Martin Luther King, Jr., Avenue, S.E., Washington, D.C. 20020. Copies of these proposed rules may be obtained at the address stated above.